

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------|---|-------------------------|
| PEGGY S. LEGRANDE |) | |
| |) | |
| Plaintiff, |) | |
| |) | Case No. |
| -vs- |) | FILED: APRIL 10, 2008 |
| UNITED STATES OF AMERICA, |) | 08CV2047 LI |
| |) | JUDGE GOTTSCHALL |
| Defendant. |) | MAGISTRATE JUDGE DENLOW |

COMPLAINT

NOW COMES the plaintiff, PEGGY S. LEGRANDE, by and through undersigned counsel, and complaining against the defendant, UNITED STATES OF AMERICA, states as follows:

1. The federal district courts have exclusive jurisdiction of this action under 28 U.S.C. §1334(b)(1) as it includes a civil action against the United States for money damages for personal injury caused by the negligent or wrongful acts or omissions of employees of the Government while acting within the scope of their office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

2. Plaintiff filed a claim under the Federal Torts Claim Act on September 24, 2007. The claim was denied by the defendant, United States of America on March 26, 2008 . (See Exhibit A). Plaintiff has complied with all jurisdictional provisions of 28 U.S.C. §2675 and has exhausted her administrative remedies prior to the filing of this action.

3. Venue is proper in the Northern District of Illinois, Eastern Division under 28 U.S.C. §1331(e) as a substantial part of the events or omissions giving rise to the claim occurred in this district.

4. On February 10, 2006, Southwest Airlines Co. operated a certain Boeing 737 airplane as Southwest Airlines Flight 2745 with scheduled service from Cleveland, Ohio to Chicago, Illinois.

5. On February 10, 2006, the plaintiff, Peggy S. LeGrande, was a flight attendant employed by Southwest Airlines Co., and was aboard Southwest Airlines Flight 2745 within the scope and performance of her employment duties.

6. On February 10, 2006, at approximately 8:58 p.m. local time (0258Z) a pilot report or "PIREP" of an urgent nature and coded UUA was made from a Boeing 737 approximately twenty nautical miles west of the Waterville (WVW) VOR at Flight Level 200 that reported moderate to severe turbulence.

7. On February 10, 2006 at approximately 9:05 p.m. local time, another PIREP of an urgent nature and coded UUA was made from a DC-9, also at FL 200 approximately forty nautical miles east of the Fort Wayne (FWA) VOR which reported severe turbulence.

8. On February 10, 2006, from a period of time beginning prior to 8:58 p.m. local time and through approximately 9:15 p.m. local time, Southwest Airlines Flight 2745 was flying in the vicinity of the area from where the two aforesaid urgent PIREPs originated.

9. That at all times herein relevant, it was the duty of the defendant, United States of America, individually and/or through the Federal Aviation Administration, its employees, agents and representatives, to exercise reasonable care in its conduct so as not to cause injury to persons aboard airplanes involved in air transportation under 49 C.F.R. Part 121 within the airspace of the

United States of America, and in accordance with federal regulations had certain additional duties relative to the control of air traffic.

10. That notwithstanding its duty, the United States of America, through the Federal Aviation Administration, its employees, agents and representatives, were negligent in that they breached their duties under the rules and regulations governing the performance of their job duties in particulars including but not limited to the following:

- (a) failed to advise the pilots of Urgent Pilot Weather Reports (UUA) through Hazardous Inflight Weather Advisory Service (HIWAS); contrary to and in violation of FAA Order 7110.65P, Section 2-6-2; and/or
- (b) failed to stay aware of current weather information needed to perform ATC duties, contrary to and in violation of FAA Order 7110.65P, Section 2-6-1; and/or
- (c) failed to relay pertinent PIREP information to concerned aircraft in a timely manner, contrary to and in violation of FAA Order 7110.65P, Section 2-6-3(d)(1); and/or
- (d) failed to follow duty priority by issuing a safety alert, contrary to and in violation of FAA Order 7110.65P, Section 2-1-2; and/or
- (e) failed to immediately distribute Urgent PIREPs, contrary to and in violation of FAA Order 7210.3, Sec. 6-3-1; and/or
- (f) failed to establish procedures for the prompt collection and dissemination of PIREP information that contained direction for a central source to be responsible for soliciting and handling PIREP's in accordance with the provisions of FAA Order 7110.65P, Air Traffic Control, Section 2-6-3, PIREP Information; contrary to and in violation of FAA Order 7210.3, Section 10-3-1.

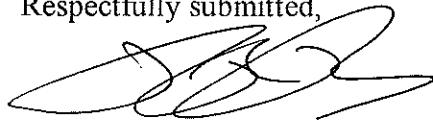
11. As a direct and proximate result of the negligent breach of duty by the United States of America, at approximately 9:15 p.m. local time, the plaintiff, Peggy S. LeGrande, claimant was thrown about the cabin of the airplane being operated as Southwest Airlines Flight 2745 due to a severe turbulence encounter and thereby sustained serious personal injuries.

12. That as a result of the aforesaid injuries, the plaintiff, Peggy S. LeGrande, was caused to and will in the future experience great pain and suffering, has suffered and will in the

future suffer disability and disfigurement, has suffered and will in the future suffer a loss of normal life, has been caused to incur and will in the future incur expenses for necessary medical care, treatment and services, has suffered and will in the future suffer a loss of the value of her time, earnings, profits and salaries and has been and will be damaged in her earning capacity, and has otherwise been damaged in a personal and pecuniary nature.

WHEREFORE, the plaintiff, Peggy S. LeGrande, prays that judgment be entered in her favor and against the defendant, United States of America, in the sum of twenty-five million dollars (\$25,000,000), together with prejudgment interest, attorneys' fees and the costs of this action.

Respectfully submitted,



Donald J. Nolan, Esq.
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Charles R. Barnett, III

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Date: April 10, 2008



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Chief Counsel
Litigation Division

800 Independence Ave., SW.
Washington, DC 20591

March 26, 2008

08CV2047 LI

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JUDGE GOTTSCHALL
MAGISTRATE JUDGE DENLOW

7000 0600 0025 9081 4589

Charles R. Barnett, III, Esq.
Nolan Law Group
20 North Clark, 30th Floor
Chicago, IL 60602

Re: *Claim of Peggy Susan LeGrande
arising from injuries allegedly sustained onboard SWA Flight 2745
February 10, 2006, enroute to Midway Airport, Chicago, IL*

Dear Mr. Barnett:

We have completed review of the claim you filed with the Federal Aviation Administration on October 2, 2007, on behalf of the above-named claimant. Our review has not disclosed facts upon which a finding of liability on the part of this agency could be based. Accordingly, we must decline to make payment on your claim.

If you are dissatisfied with this determination, you may initiate action in an appropriate United States District Court, pursuant to the provisions of the Federal Tort Claims Act, Title 28 U.S.C. Sections 1346(b) and 2671, et seq., not later than 6 months after the date of mailing of this notification.

Sincerely,

Richard H. Saltsman
Assistant Chief Counsel for Litigation

EXHIBIT

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